

Remarks

Applicant has reviewed the Office Action mailed on June 16, 2004, as well as the art cited. Claims 1-24 are pending in this application.

Amendment to claims

The amendments to claims 18-21 are clarifying amendments and not offered to overcome the Examiner's rejections based on the art cited by the examiner. Applicant's amendment to claims 18-21 is not to be construed as an admission that any of the references qualifies as prior art for the claims of this application.

Rejections Under 35 U.S.C. § 102(e)

In paragraph 2 of the Office Action, the Examiner indicated that claims 1, 4-10, 13-18, 20, 21, 22 and 24 were rejected under 35 USC § 102(e) as being anticipated by Roberts et al. (WO 96/10303). Respectfully, Applicant traverses this rejection.

Roberts et al. (WO 96/10303) is not a proper basis for rejection under 35 USC § 102(e). The reference WO 96/10303 is not a United States Patent or a published United States patent application. The reference Roberts et al. (WO 96/10303) is a World Intellectual Property Organization (WIPO) publication of an international application published under the Patent Cooperation Treaty (PCT) prior to November 29, 2000 and is subject to the former (pre-AIPA) version of 35 U.S.C. 102(e). Respectfully, the Examiner should also note that Roberts et al. (WO 96/10303) did not designate the United States as a designated state and therefore will never generate a United States Patent. Respectfully, for these reasons, Roberts et al. (WO 96/10303) is not a proper reference for a rejection under either the former or present version of 35 USC § 102(e).

Rejections Under 35 U.S.C. § 103

In paragraph 4 of the Office Action, the Examiner indicated that claims 2, 11, 19, and 23 were rejected under 35 USC § 103(a) as being unpatentable over Roberts et al. in view of Doshi et al. (U.S. Patent No. 6,055,424). Applicant respectfully traverses this rejection.

Respectfully, Roberts et al. (WO 96/10303) is not a proper reference for rejection under 35 USC § 103(a) for the following two reasons:

First, for the reasons discussed above, Roberts et al. (WO 96/10303), is not a proper reference of prior art under 35 USC § 102(e) and accordingly not available as a proper reference of prior art under 35 USC § 103(a).

Second, Roberts et al. (WO 96/10303) is not available as a proper reference of prior art under 35 USC § 103(a) because the subject matter of Roberts et al. and the claimed invention, were, at the time the invention was made, owned by the same person, namely ADC Telecommunications, Inc. Accordingly, 35 USC § 103(c) disqualifies Roberts et al. (WO 96/10303) as prior art against the claimed invention.

In paragraph 5 of the Office Action, the Examiner indicated that claims 3, and 12 were rejected under 35 USC § 103(a) as being unpatentable over Roberts et al. in view of Humpleman (U.S. Patent No 6,005,861). Applicant respectfully traverses this rejection.

Respectfully, Roberts et al. (WO 96/10303) is not a proper reference for rejection under 35 USC § 103(a) for the following two reasons:

First, for the reasons discussed above, Roberts et al. (WO 96/10303) is not a proper reference of prior art under 35 USC § 102(e) and accordingly not available as a proper reference of prior art under 35 USC § 103(a).

Second, Roberts et al. (WO 96/10303) is not available as a proper reference of prior art under 35 USC § 103(a) because the subject matter of Roberts et al. (WO 96/10303) and the claimed invention, were, at the time the invention was made, owned by the same person, namely ADC Telecommunications, Inc. Accordingly, 35 USC § 103(c) disqualifies Roberts et al. (WO 96/10303) as prior art against the claimed invention.

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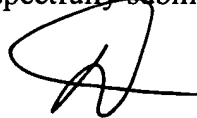
Title: ASYMMETRICAL TRANSPORT OF DATA

CONCLUSION

Applicant respectfully submits that claims 1-24 are in condition for allowance and notification to that effect is earnestly requested. If necessary, please charge any additional fees or credit overpayments to Deposit Account No. 502432.

If the Examiner has any questions or concerns regarding this application, please contact the undersigned at (612) 455-1680.

Respectfully submitted,



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